



OFFICE OF THE POLICE COMMISSIONER
ONE POLICE PLAZA • ROOM 1400

August 2, 2019

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Michelle Sharpe**
Tax Registry No. 944292
Manhattan Court Section
Disciplinary Case Nos. 2017-17313

The above named member of the service appeared before Assistant Deputy Commissioner Paul M. Gamble on March 15, 2019, and was charged with the following:

DISCIPLINARY CASE NO. 2017-17313

1. Said Police Officer Michelle Sharpe, while off-duty and assigned to the 120th Precinct, on or about April 13, 2017, in the confines of the 69th Precinct, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer Sharpe, while acting in concert with another individual known to the Department, engaged in a physical altercation with Person A, in which she repeatedly struck Person A, and held her down while another person known to the Department, kicked and struck Person A. (*As amended*)

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT –
PROHIBITED CONDUCT**

2. Said Police Officer Michelle Sharpe, while off-duty and assigned to the 120th Precinct, on or about April 13, 2017, in the confines of the 69th Precinct, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: Said Police Officer Sharpe endangered the welfare of two (2) children known to the Department. (*As amended*)

P.G. 203-10, Page 1, Paragraph 5

P.L. 260.10

**PUBLIC CONTACT –
PROHIBITED CONDUCT
ENDANGERING THE
WELFARE OF A CHILD**

3. Said Police Officer Michelle Sharpe, while off-duty and assigned to the 120th Precinct, on or about April 13, 2017, in the confines of the 69th Precinct, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer Sharpe failed to prevent a person known to the Department from striking and kicking Person A. (*As amended*)

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT –
PROHIBITED CONDUCT**

In a Memorandum dated May 23, 2019, Assistant Deputy Commissioner Paul M. Gamble found Police Officer Michelle Sharpe Guilty of Specification Nos. 1 and 2 and Not Guilty of Specification No. 3 in Disciplinary Case No. 2017-17313. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

I have considered the totality of the circumstances and issues concerning the misconduct for which Police Officer Sharpe has been found Guilty and deem that separation from the Department is warranted. However, instead of an outright dismissal from the Department, I will permit an alternative manner of separation from the Department for Police Officer Sharpe at this time.

In Disciplinary Case No. 2013-10283, a police officer forfeited 30 suspension days already served, was placed on one-year dismissal probation, waived all time and leave balances, and filed for immediate vested interest retirement for obstructing the breathing of an individual, failing to safeguard his firearm, and making threatening telephone calls and text messages. In Disciplinary Case No. 2017-17357, a police officer forfeited 30 suspension days already served, 30 suspension days to be served, was placed on one-year dismissal probation, waived all time and leave balances, and filed for immediate vested-interest retirement for engaging in a physical altercation with an individual, menacing an individual, and being unfit for duty. In Disciplinary Case Nos. 2017-18170 and 2018-18484, a captain forfeited 30 suspension days already served, 30 suspension days to be served, was placed on one-year dismissal probation, waived all time and leave balances, and filed for immediate service retirement for making misleading statements, engaging in a physical altercation with an individual, and being unfit for duty on two occasions.

It is therefore directed that an *immediate* post-trial settlement agreement be implemented with Police Officer Sharpe in which she shall forfeit thirty (30) suspension days without pay already served, forfeit thirty (30) suspension days without pay to be served, be placed on one (1) year dismissal probation, cooperation with counseling, waive all time and leave balances, including terminal leave, waive all suspension days, with and without pay, if any, and immediately file for vested-interest retirement.

Such vested-interest retirement shall also include Police Officer Sharpe's written agreement to not initiate administrative applications or judicial proceedings against the New York City Police Department to seek reinstatement or return to the Department. If Police Officer Sharpe does not agree to the terms of this vested-interest retirement agreement as noted, this Office is to be notified without delay. This agreement is to be implemented **IMMEDIATELY**.



James P. O'Neill
Police Commissioner



POLICE DEPARTMENT

May 23, 2019

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In the Matter of the Charges and Specifications : Case No.
- against - : 2017-17313
Police Officer Michelle Sharpe :
Tax Registry No. 944292 :
Manhattan Court Section :
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At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Paul M. Gamble
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Jordan Farnham, Esq.
Daniel Rabaev, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For the Respondent: Richard Murray, Esq.
305 Broadway, 14th Floor
New York, NY 10007

To:

HONORABLE JAMES P. O'NEILL
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

CHARGES AND SPECIFICATIONS

1. Said Police Officer Michelle Sharpe, while off-duty and assigned to the 120th Precinct, on or about April 13, 2017, in the confines of the 69th Precinct, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer Sharpe, while acting in concert with another individual known to the Department, engaged in a physical altercation with Person A, in which she repeatedly struck Person A, and held her down while another person known to the Department, kicked and struck Person A. *(As amended)*

P.G. 203-10, Page 1, Paragraph 5 CONDUCT PREJUDICIAL

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P.G. 203-10, Page 1, Paragraph 5 CONDUCT PREJUDICIAL

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on March 15, 2019. Respondent, through her counsel, entered pleas of Not Guilty to the subject charges. The Department called Sergeant Steven Silverstein as its witness. Respondent testified on her own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having reviewed all of the evidence in this matter, I find Respondent Guilty of Specifications 1 and 2. I further find Respondent Not Guilty of Specification 3. Finally, I recommend that she be DISMISSED from the New York City Police Department.

ANALYSIS

The following is a summary of the facts which are not in dispute. In the late afternoon hours of April 13, 2017, Person A paid a visit to the apartment of Person B on

[REDACTED] in Brooklyn (Statement of Person A ["Person A"] 3). Person B is the [REDACTED] of Person A's [REDACTED] Minor 2¹, as well as the [REDACTED] of Person C and Respondent. Person A also brought her [REDACTED], Minor 1, with her (*Id.*). During the visit, Person B, Person C and Person B's [REDACTED] were present. At some point during their visit, Person B objected to the manner in which Minor 1 was playing with her [REDACTED] Minor 2 and expressed the opinion that she was being too rough with him (Pers. A 3, 5). Person A responded to Person B in a manner which displeased Person C and a verbal dispute ensued (Person A 5-6). Person C suggested that Person A leave the apartment and she did so with her [REDACTED] (Person A 5-6). Person A left the apartment building and walked across [REDACTED] to the [REDACTED] Car Service, located at [REDACTED] Brooklyn, New York (Person A 6). Person A spoke with the dispatcher and requested a cab before stepping outside onto the sidewalk; when she went outside, she saw Respondent approaching her (*Id.*)

At approximately 1930 hours, Respondent reached the doorway of the cab service, grabbed Pers. A and pulled her outside, until they both ended up prone on the sidewalk (T. 76-77; Dept. Ex. 5, 19:31:03-19:31:07). Respondent admitted being on top of Person A and punching her as she lay on the sidewalk (T. 77; Dept. Ex. 5, 19:31:08-19:32:51). Respondent's [REDACTED] Person C eventually joined the altercation, punching Person A as she stood over her (T. 48, 60, 73; Dept. Ex. 5, 19:31:17). Respondent admitted becoming aware that Person C was punching

[REDACTED]

Person A at the same time Respondent was striking her and taking no action to intervene (T. 60-61, 73, 74, 78, 79; Dept. Ex. 5, 19:31:17-19:32:51). Respondent eventually let go of Person A and came to her feet (T. 74; Dept. Ex. 5, 19:33:15). Respondent admitted that at no point during the altercation did she take any action to stop Person C from striking Person A (T. 74).

While this altercation took place, Minors 1, 2 remained at the cab service waiting room and witnessed the interaction between Respondent, Person A and Person C (T. 73; Dept. Ex. 5, 19:31:03-19:31:56).

The Department offered audio recordings of two 911 calls in evidence, one from a male named [REDACTED] and the second from [REDACTED], both of which related to the above-described incident (T. 17 18; Dept. Ex. 1, 1A, 1B). The Department also offered in evidence a video recording obtained from the cab company's closed-circuit security camera (Dept. Ex. 5). The video recording captures the altercation from its inception until Person A rose from the sidewalk and re entered the cab service waiting room. The following is a summary of the relevant portions of the video:

- | | |
|-------------------|---|
| 19:30:30 | Person A is seen leaning outside the door to the cab stand, wagging her finger at someone. |
| 19:31:00 19:31:02 | Person A enters cab stand with children and places Minor 2. on the windowsill to sit. Person A then moves toward door as Respondent approaches it from the sidewalk; Respondent throws bag from her possession and reaches out toward Person A, as Person A extends her hands toward her. |
| 19:31:03-19:31:07 | Respondent grabs Person A and pulls her outside; they fall to the sidewalk, with Respondent on her knees on top of Person A and Person A on her back with her feet facing the street. |
| 19:31:08-19:31:16 | Respondent throws six punches at Person A. |
| 19:31:17-19:31:55 | Person C joins altercation, punching Person A over 10 times along with Respondent, who repeatedly strikes Person A. When Respondent is not punching Person A, she is holding her down while Person C punches her. |
| 19:31:52-19:32:02 | Passerby takes IMinors 1 and 2 from the cab stand waiting area and escorts them away from the area of the altercation. |

19:32:25-19:32:31 Person C stands up and strikes Person A twice more, before crouching down again near Person A.
19:33:15-19:33:19 Respondent stands up and walks to the doorway of the cab stand, where she is hugged by a bystander
19:33:20-19:33:24 Respondent walks away from the cab stand.
19:33:27-19:33:34 Person C stands up, then walks away; Person A staggers to her feet and attempts to follow Person C while saying something but she is held back by a passerby.

At issue in this case is whether: (1) Respondent engaged in a physical altercation with Person A to the prejudice of good order, efficiency or discipline of this Department; (2) Respondent endangered the welfare of two children to the prejudice of good order, efficiency or discipline of this Department; and (3) failed to prevent Person C from striking and kicking Person A to the prejudice of good order, efficiency or discipline of this Department.

The Department offered the hearsay statement of Person A in evidence (Dept. Ex. 2, 2A ["Person A stated that Respondent 'walked up to me and she just grabbed me straight by my throat and throw [sic] me to the ground. And the next [REDACTED] came and just started stomping in my face" (Person A 6). According to Person A, "[Respondent] said, 'Bitch, you gonna [sic] pull [REDACTED] like that' and she grabbed me by my throat. That's when I tell me [sic] to the ground and the other [REDACTED] just came and started kicking me in my face. Michelle had her throat her, her foot in my throat while the next [REDACTED] s punching and kicking me in my face" (Person A 7).

Person A stated that [REDACTED] was watching the altercation and crying; after the altercation concluded, [REDACTED] asked her, "Why did [REDACTED] Michelle do that?" (Person A 13).

Respondent testified that on April 13, 2017, her sister Person C called her in the early evening and reported that Person A was "up in [Respondent's] [REDACTED] Person B's] face" and failed to correct Minor 1 based upon Minor 1's supposed maltreatment of Minor 2 (T. 53).

Respondent testified that she told Person C that she and [REDACTED] could "figure it out" (*Id.*). At approximately 1916 hours, Respondent received a second telephone call from Person C in which she was told that the situation was "getting out of control," that Person A was "dragging [REDACTED] out of the house," and that Person A was "up in [REDACTED] face" (T. 55-56). At that point, Respondent decided to go to Person B's apartment (T. 56).

Respondent then drove to [REDACTED] apartment building; when she alighted from her car, an unidentified individual pointed Person A out and stated that she was walking across the street (T. 56-57). Respondent followed her to the entrance of the [REDACTED] cab stand and asked her "why she was treating [REDACTED] like that" (T. 58). Person A, according to Respondent was angry and responded, "I know, that's [REDACTED]" (T. 59). They continued to exchange words until she claimed that Person A "[came] at me aggressively and I defended myself": "As she's coming at me, I reached out, grabbed her and we started fighting" (T. 59-60). After Respondent and Person A went to the sidewalk, there came a time when she became aware of Person C punching Person A, as Respondent and Person A held onto each other (T. 60, 72, 73). Respondent described her state of mind at the time as:

"She's holding onto me, I'm holding onto her, we're fighting and Person C is there, Person C is punching. I'm not thinking I should push Person C away because Person C is standing up. she has the upper hand. I'm already on the ground with Person A." (T. 60-61).

Respondent testified that someone eventually attempted to pull her off Person A, causing her to stand up. According to Respondent, Person A then stood up and Person C stopped punching her (T. 61). Respondent became aware that a call for police assistance had been made and remained at the scene (*Id.*). When responding officers arrived, she identified herself as a Member of Service

(T. 61-62). Respondent and Person A were [REDACTED]
[REDACTED]

Respondent claimed that Person A had been drinking and that she was intoxicated (T. 62). She asserted that during the altercation, she was close enough to Person A to smell alcohol on her breath (T. 62-63). Respondent conceded that in retrospect, she could have handled the situation differently and should have called 9-1-1 to let police handle the situation (T. 64).

On cross-examination, Respondent asserted that it took her 15 minutes to drive from her residence [REDACTED] to Person B's apartment building, during which time she admitted she did not call for police assistance (T. 68). Respondent claimed that by the time she arrived at her [REDACTED] apartment building, she was well aware that Person A had already left the apartment, yet she still felt the need to speak to her (T. 70). She acknowledged that she walked up to Person A and did not retreat, although she claimed that Person A was the aggressor (T. 71). Respondent conceded that as she approached Person A to speak with her, she threw a bag she was carrying to the ground; she admitted that at that point, she knew she was not going to have a conversation with Person A (T. 71-72; Dept. Ex. 5, 19:31:02). She conceded further after being confronted with the video evidence, that the minor children were watching her as she was punching [REDACTED] (T. 72-73).

While Respondent claimed that she threw her bag to the ground because she believed that Person A was ready to fight, she admitted that up to the point where she grabbed her, Person A had not thrown a punch (T. 76-77).

Department Exhibits 3 and 4 are photographs of Person A after the altercation, depicting a bruise to her eye (Dept. Ex. 3) and scratches to her left cheek (Dept. Ex. 4).

I find credible the material factual assertions made by Person A in her statement. While she did not appear before the Tribunal and subject herself to cross-examination, the acts which she ascribed to Respondent were corroborated, for the most part, by the actions of Respondent which were captured by Department Exhibit 5. The video recording clearly shows Respondent punching Person A approximately 14 times. While Person A stated that Person C kicked her in her face, those actions were obstructed by signage on Department Exhibit 5, if they actually occurred.

In contrast, I find Respondent's testimony to be self-serving and unreliable. In her testimony before the Tribunal, Respondent effected a glib demeanor, apparently calculated to minimize the brutishness of the altercation. Moreover, there were irreconcilable inconsistencies between Respondent's testimony and the other credible evidence in the case. For example, Respondent attempted to portray her actions as acting in self-defense, when the video recording, as well as some of her admissions, clearly establish her as the aggressor in the altercation. In addition, Respondent's professed motivation for the confrontation with Person A being a concern for the well-being of [REDACTED] is belied by the evidence which clearly shows her beating [REDACTED] in his presence.

Specification 1: Engaging In a Physical Altercation

I find that the Department has met its burden of proof by a preponderance of the credible relevant evidence that Respondent engaged in a physical altercation with Person A to the prejudice of good order, efficiency or discipline of this Department.

There is no dispute that Respondent and Person A had a physical altercation, based upon: (1) the video of the incident; (2) Person A's hearsay statement; and (3) Respondent's admissions. further find that the incident was prejudicial to good order, efficiency or discipline of this

Department based on Respondent's initiation of the altercation, the absence of a credible claim of self defense and the apparently punitive nature of the assault.

While it is difficult to pass judgment on the genesis of [redacted] disputes, and the reasons therefor, there is no question that resorting to violence in an attempt to resolve them is impermissible, especially for a Member of Service. In the view of the Tribunal, Respondent had sufficient time after Person C's second telephone call to gather her emotions and formulate a less combative approach to address her concerns about Minor 2's treatment with Person A. Despite this opportunity to "cool off," the evidence supports a finding that Respondent chose to use physical force, rather than verbal persuasion, to make her displeasure known to Person A.

I find no credible evidence from which to infer that Respondent was exercising self defense in the altercation she obviously initiated with Person A. Although Department Exhibit 5 does show Person A's hands moving in front of her as Respondent advanced upon her just before she was grabbed, the movements do not appear to be consistent with an attempt to strike Respondent; they do, however, appear to be consistent with a defensive gesture made in response to Respondent's aggressive posture.

Based upon the foregoing, I find Respondent Guilty of Specification 1.

Specification 2: Endangering the Welfare of a Child

I find that the Department has met its burden of proof by a preponderance of the relevant, credible evidence that Respondent endangered the welfare of two children to the prejudice of good order, efficiency or discipline of this Department.

While the Patrol Guide does not contain a provision governing the elements of this alleged misconduct, New York Penal Law Section 260.10 is instructive:

A person endangers the welfare of a child when she knowingly acts in a manner likely to be injurious to the physical, mental or moral welfare of a child less than 17 years old.

(*Penal Law § 260.10*). The New York Court of Appeals held in *People v. Johnson*, 95 N.Y.2d 368 (2000), that the statute is applicable to conduct directed toward others that is likely to cause harm to children. The court held that “actual harm to the child need not result for there to be criminal liability,” explaining:

“The adverse effects of domestic violence on children have been well documented over the past two decades and have been recognized by all branches of our government in New York. In 1996, the Governor approved an act to amend the Domestic Relations Law and the Family Court Act to require courts to consider domestic violence when rendering child custody and visitation determinations. He noted that “[t]he victims of domestic violence are not limited to those who are actually battered by spouses, for the evidence is overwhelming that those who batter their spouses inflict tremendous harm on their children . . . [D]omestic violence causes great psychological and developmental damage to children even when they are not themselves physically abused” (Governor’s Approval Mem to L 1996, ch 85, 1996 McKinney’s Session Laws of NY, at 1858, 1859). Some trial courts in child endangerment prosecutions have also explicitly recognized the overwhelming evidence of harm to children exposed to domestic violence . . .”

(*People v. Johnson*, 95 N.Y.2d at 371). Thus, “a defendant who performs a significant act of domestic violence against a mother in the presence of a child is guilty of endangering the welfare of that child” (*Johnson*, 95 N.Y. 2d at 373; *People v. Josue*, 56 Misc.3d 51, 54 [App Term 2017]).

The evidence in this case clearly established that Respondent saw [REDACTED] and Person As [REDACTED] inside the cab stand and was aware that they remained in that location for at least part of her assault upon [REDACTED]: on cross-examination, Respondent conceded that the children were watching the assault through the window of the cab stand. I credit Person As factual assertions that [REDACTED] was crying after the incident and asked her “Why did [REDACTED]

³ An unidentified female can be seen escorting the children from the waiting room at 19:31:52.

Michelle (referring to Respondent) do that?" Accordingly, I find that Minor 1 witnessed the assault and had a discernible emotional, contemporaneous response to it.

I find that Respondent's unprovoked attack upon [REDACTED] committed on a public street, which was exacerbated by [REDACTED] joining in the beating, was a significant act likely to be harmful to two witnessing children.

Based upon the foregoing, I find Respondent Guilty of Specification 2.

Specification 3: Failure to Prevent an Assault

I find that the Department has failed to meet its burden of proof by a preponderance of the credible, relevant evidence that Respondent failed to prevent Person C from assaulting Person A and that her nonfeasance was to the prejudice of good order, efficiency or discipline of this Department.

As set forth above in the analysis of Specification 1, there is no dispute that Respondent engaged in a physical altercation with Person A. It is also undisputed that Respondent [REDACTED] Person C, joined the altercation and herself punched Person A many times. Respondent admitted that she was aware that [REDACTED] joined the ongoing altercation and that she did nothing to prevent her from striking Person A.

Despite the foregoing, the imposition of a standard by which Respondent's failure to prevent another assault by [REDACTED] while she was engaged in an assault of her own, constitutes misconduct is unreasonable under these circumstances. In a previous case, a Member of Service was dismissed for failing to take police action, which is to be distinguished from failing to prevent an unlawful act (see *Disciplinary Case No. 2014-12864* [November 16, 2016]). While it is morally indefensible for Respondent to have continued her assault upon Person A after [REDACTED]

[REDACTED]

joined in, holding her liable for failing to prevent the additional simultaneous assault is, in effect, imposing a strict liability standard and is jurisprudentially unsound.

Based upon the foregoing, I find Respondent Not Guilty of Specification 3.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. (*See Matter of Pell v. Board of Educ.*, 34 N.Y.2d 222, 240 [1974]). Respondent was appointed to the Department on July 9, 2007. Information from her personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Department has recommended that Respondent be terminated. After reviewing the findings of fact in this case, I concur. While Department precedent in [REDACTED] cases appears to suggest a less severe penalty than outright termination, Respondent's commission of the attack in the presence of minor children is a factor which distinguishes this case from the aforementioned Department precedent, as well as constituting an aggravating circumstance.

In previous cases where respondents have been terminated after being found guilty of physical assaults, significant aggravating factors have been present (*Disciplinary Case No. 2014-12338* [August 23, 2017])[Twelve-year police officer, with no prior disciplinary history, dismissed from the Department for wrongfully initiating a physical altercation with another individual and failing to remain at the scene of this off-duty incident or request the response of a patrol supervisor. After a dispute with a tire shop owner over the cost of a repair that led to a verbal altercation where both individuals used profanity, respondent punched the owner with such force that he broke his jaw, necessitating surgery and a hospital stay. After throwing the punch, respondent glanced back at the individual but drove away and made no subsequent notifications or calls for aid]; *Disciplinary Case Nos.* [REDACTED]

██████████ Twelve-year police officer, with one prior adjudication for a domestic incident, was dismissed from the Department for (i) being involved in a physical altercation with his ██████████; (ii) grabbing her cell phone and breaking it into pieces; (iii) threatening her while placing his firearm to her head; (iv) forcibly keeping her from leaving a hotel room and; (v) failing to carry his Department shield while armed. Respondent became enraged, slapping her in the face multiple times and punching her arms, chest and abdomen. He then broke her phone to prevent her from calling her cousin to pick her up and for over two hours, prevented her multiple attempts to leave the room by slamming, punching, slapping, choking and throwing her on the floor repeatedly for multiple 15 minute "circuits"]; *Disciplinary Case No.* ██████████

██████████ Five-year police officer, with no prior disciplinary history, dismissed from the Department for engaging in a physical altercation with his former ██████████. Respondent struck the victim's eye, causing what is known as an orbital blowout fracture, requiring invasive surgery to mend the injuries]).

In this case, the injuries to Person A were relatively minor when compared to the more serious injuries described above (*i.e.*, a broken jaw, orbital blowout fracture). In addition, there was no evidence in this case of the use of a weapon or other threat of deadly force. Were the Tribunal to consider the assault as the most serious misconduct, a penalty short of termination would be warranted.

In this case, however, the evidence demonstrates that Respondent launched an unprovoked and unwarranted physical assault upon Person A while she was attempting to secure cab service for herself and ██████████ ██████████. From the inception of the altercation to the end, Respondent was aware that Person A was traveling with ██████████; the credible evidence in this case supports a finding that she saw Person A approach the

cab stand with [REDACTED] Respondent admitted in open court that the video shows the [REDACTED] [REDACTED] watching the altercation through the window of the cab stand. By initiating a physical confrontation with Person A while [REDACTED] were in her care left them defenseless, an act which is unconscionable when committed by any adult, let alone by a Member of Service. During the period of time the children were left in the cab stand unsupervised, they could have been spirited away by a stranger or even wandered into traffic. It is fortuitous that an apparently benevolent onlooker appreciated the gravity of the situation and escorted the children away from the scene. While it would be difficult to quantify, at this juncture, whether any actual harm was done to the children, there can be no doubt that this behavior is of the type which is likely to be psychologically and developmentally damaging to them. This would be a shocking circumstance for an adult child to witness, let alone [REDACTED]. I find this factor, standing alone, to be aggravating and compelling.

Furthermore, Respondent initiated this physical confrontation ostensibly because she disagreed with Person A on a [REDACTED] issue. In the view of the Tribunal, this was an extremely heavy-handed response to a relatively trivial matter.

While Respondent characterized the altercation as a fight, this assertion is belied by the video recording of the incident. Her disingenuous assertion at trial that she was exercising her right to self-defense is unsupported by the evidence. Respondent and Person A were not mutual combatants: Respondent aggressively wrestled Person A to the ground and proceeded to pummel her, only letting up when [REDACTED] took the lead. When [REDACTED] joined the altercation, rather than recognizing that the addition of another party to the conflict would only further inflame the situation, or reconsidering her earlier aggressiveness toward Person A, Respondent persisted in raining many more blows upon her.

Respondent has a formal disciplinary history, and has already served a period of dismissal probation, accompanied by a significant sanction.

I find that the combination of factors described above render Respondent unsuitable for continued service in this Department; I therefore recommend that Respondent be DISMISSED from the New York City Police Department.

Respectfully submitted,

Paul M. Gamble
Assistant Deputy Commissioner Trials





POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER MICHELLE SHARPE
TAX REGISTRY NO. 944292
DISCIPLINARY CASE NO. 2017-17313

Respondent was appointed to the Department on July 9, 2007. On her last three annual performance evaluations, she received a 3.0 overall rating of "Competent" for 2016, a 4.0 overall rating of "Highly Competent" for 2015, and a 3.0 overall rating of "Competent" for 2013.

[REDACTED]

In 2013, Respondent forfeited 66 pre-trial suspension days with pay, 30 pre-trial suspension days without pay and 15 vacation days and was placed on one-year dismissal probation for (i) extending her meal period, (ii) failing to comply with an order to report to the front desk at the conclusion of her meal, (iii) being discourteous to a supervisor by using vulgar language, (iv) inaccurate memo book entries. In connection with the instant case, Respondent was suspended on April 14, 2017, placed on modified duty on May 15, 2017 and placed on Level 2 Discipline Monitoring on October 10, 2017. Monitoring and modified duty both remain ongoing.

For your consideration.



Paul M. Gamble
Assistant Deputy Commissioner Trials